

(f) *Example.* The provisions of this section may be illustrated by the following example:

*Example.* M Corporation, a personal holding company, computes its taxable income on the basis of the calendar year. On December 31, 1956, N Corporation acquires the assets of M Corporation in a transaction to which section 381(a) applies. On July 31, 1958, a determination (as defined in section 547(c)) establishes that M Corporation is liable for the taxable year 1955 for personal holding company tax in the amount of \$35,500 based on undistributed personal holding company income of \$42,000 for such taxable year. N Corporation complies with the provisions of this section and on September 30, 1958, distributes \$42,000 to its shareholders as deficiency dividends with respect to M Corporation's taxable year 1955. The distribution of \$42,000 by N Corporation is a taxable dividend under section 316(b)(2) regardless of whether N Corporation is a personal holding company for the taxable year 1958 or whether it had any current or accumulated earnings and profits. See *Example (3)* in paragraph (e) of §1.316-1. Because N Corporation has paid deficiency dividends of \$42,000 in accordance with this section, M Corporation is entitled to a deficiency dividend deduction of \$42,000 for the taxable year 1955 and is thus relieved of its liability for personal holding company tax of \$35,500 for such taxable year. To prevent a duplication of deductions, the amount distributed by N Corporation in 1958 does not become a part of N Corporation's dividends paid deduction under section 561 for any taxable year.

[T.D. 6532, 26 FR 409, Jan. 19, 1961, as amended by T.D. 7604, 44 FR 18661, Mar. 29, 1979; T.D. 7767, 45 FR 11264, Feb. 6, 1981]

**§ 1.381(c)(18)-1 Depletion on extraction of ores or minerals from the waste or residue of prior mining.**

(a) *Carryover requirement.* Section 381(c)(18) provides that the acquiring corporation in a transaction described in section 381(a) shall be considered as though it were the distributor or transferor corporation after the date of distribution or transfer for the purpose of determining the applicability of section 613(c)(3) (relating to extraction of ores or minerals from the ground). Thus, an acquiring corporation which has acquired the waste or residue of prior mining from a distributor or transferor corporation in a transaction described in section 381(a) shall be entitled, after the date of distribution or transfer, to an allowance for depletion under section 611 in respect of ores or

minerals extracted from such waste or residue if the distributor or transferor corporation would have been entitled to such an allowance for depletion in the absence of the distribution or transfer. See paragraph (f) of §1.613-4 to determine whether a distributor or transferor corporation is entitled to an allowance for depletion with respect to the waste or residue of prior mining.

(b) *Application of section 614 to waste or residue of prior mining.* If, in a transaction described in section 381(a), the acquiring corporation acquires waste or residue of prior mining from a distributor or transferor corporation, then the acquiring corporation shall be considered as though it were the distributor or transferor corporation for the purpose of applying section 614 and the regulations thereunder to the waste or residue so acquired. Thus, if the distributor or transferor corporation was required under paragraph (c) of §1.614-1 to treat the waste or residue as part of the mineral deposit from which it was extracted and if the acquiring corporation acquires both the waste or residue and the mineral deposit from which it was extracted in a transaction described in section 381(a), then such waste or residue shall be treated as a part of such mineral deposit in the hands of the acquiring corporation. On the other hand, if the waste or residue was required to be treated as a separate mineral deposit in the hands of the distributor or transferor corporation, such waste or residue shall be treated as a separate mineral deposit in the hands of the acquiring corporation.

[T.D. 6552, 26 FR 1991, Mar. 8, 1961, as amended by T.D. 7170, 37 FR 5373, Mar. 15, 1972]

**§ 1.381(c)(19)-1 Charitable contribution carryovers in certain acquisitions.**

(a) *Carryover requirement.* Section 381(c)(19) provides that, in computing taxable income for its taxable years which begin after the date of distribution or transfer to which section 381(a) applies, the acquiring corporation shall take into account any charitable contributions made by a distributor or transferor corporation during the taxable year ending on the date of distribution or transfer, and in certain